

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
NO. 5:07-HC-2100-H

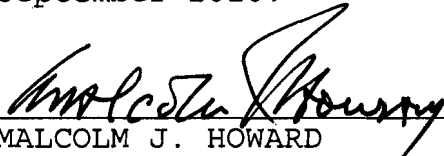
|                           |   |
|---------------------------|---|
| UNITED STATES OF AMERICA, | ) |
|                           | ) |
| Petitioner,               | ) |
|                           | ) |
|                           | ) |
| v.                        | ) |
|                           | ) |
|                           | ) |
| ROBERT BROWN,             | ) |
|                           | ) |
| Respondent.               | ) |

**ORDER**

This matter is before the court on respondent's September 11, 2007, motion to dismiss the government's petition, filed pursuant to 18 U.S.C. § 4248. On May 17, 2010, the Supreme Court, in United States v. Comstock, 130 S. Ct. 1949 (2010), upheld 18 U.S.C. § 4248 as to challenges made pursuant to the Necessary and Proper Clause and remanded Comstock to the Fourth Circuit Court of Appeals for further proceedings. Following Comstock, respondent filed a second, renewed motion to dismiss incorporating a number of arguments that are now pending before the Fourth Circuit Court of Appeals following the remand of Comstock. In light of the procedural posture of these cases, the court hereby DENIES without prejudice respondent's first motion to dismiss, filed September 11, 2007 [DE #7]. The court

will address in due course respondent's second, renewed motion to dismiss and any amendments or supplements thereto.

This 8<sup>th</sup> day of September 2010.

  
MALCOLM J. HOWARD  
Senior United States District Judge

At Greenville, NC  
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